

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

TRACEY DONALDSON,)
individually, and on behalf of)
her daughter, **MICHELLE TEBOLT**,)
a minor,)
Plaintiff,)
v.)
URGENT CARE 24/7, LLC, and)
JERRY K. WILLIAMS, M.D.)
Defendants.)

PLAINTIFFS' SECOND AMENDED PETITION FOR SETTLEMENT

COMES NOW Tracey Donaldson, individually and on behalf of her daughter, Michelle Tebolt, a minor, and by and through undersigned counsel, files this Petition for Settlement, pursuant to LR SD Ga 17.1, showing as follows:

1.

This case is settled and the petition to finalize was filed on December 17, 2013.

2.

The Court declined the Motion and directed the Complaint be Amended and it was amended on January 28, 2014.

3.

Exhibit A is the Courts Order and the Amended Complaint that shows admitted jurisdiction.

4.

On August 27, 2012, Michelle Tebolt appeared at Defendants' Urgent Care 24/7 located at 144 Lincoln Street in Savannah, Georgia, with fever, sinus congestion, nausea, and vomiting. *See* Medical Records at Exhibit B.

5.

Defendants' Physician Assistant, Michael Grabowski, after consulting with the Defendant Jerry K. Williams, M.D., owner of Defendant Urgent Care 24/7, treated Ms. Tebolt with an injection, into her upper left arm, containing 80 mg of Kenalog®, a synthetic glucocorticoid corticosteroid used to treat, *inter alia*, respiratory and allergic disorders.

6.

Shortly after the injection, Ms. Tebolt suffered pain and scarring in her upper right arm, and a dissolution of the subcutaneous fat under the injection site.

7.

On July 30, 2013, the present suit was filed alleging that Defendants' conduct fell below the standard of care in the following manner:

- (a) Defendants failed to observe the contraindication for the injection of Kenalog® into muscles other than the gluteal muscle;
- (b) The Defendants failed to observe the proper dosage for Kenalog®; and
- (c) On information and belief, the Defendants failed to ensure that the proper needle length of 1.5 inches was utilized.

8.

The affidavit of Dr. Vincent P. Beltrani, Ms. Tebolt's family care physician, is attached hereto as Exhibit C, in support of the above-referenced allegations.

9.

As a result of Defendants' alleged negligence, Ms. Tebolt will have to undergo cosmetic surgery to repair the scar tissue in her upper left arm. A true and correct copy of a picture of Ms. Tebolt's arm as of May 2013 is attached hereto as Exhibit D.

10.

A statement regarding the costs of this surgery, and prognosis, prepared for Dr. Celestino Sepulveda's signature, is attached hereto as Exhibit E. However, Dr. Sepulveda has asked for \$400.00 before he will sign any statement. See Exhibit F. In order to obtain the highest possible recovery for our client, we have foregone this expense pending an Order to obtain a notarized signature from Dr. Sepulveda.

11.

After reviewing the above-referenced evidence, and conferring with Defendants' counsel, the parties have reached an agreement to settle all claims for \$35,000.00. Pursuant to the agreement between Ms. Donaldson and undersigned counsel, the proposed distribution of the settlement proceeds is as follows:

Total Settlement Amount	\$35,000.00
<i>Less:</i>	
Attorneys' Fees (35%)	\$12,250.00
Expenses	\$592.20
Amount due to Plaintiff:	\$22,157.80

12.

A true and correct copy of the expenses incurred to date by undersigned counsel is attached hereto as Exhibit G.

13.

A true and correct copy of the existing fee contract with undersigned counsel, is attached hereto as Exhibit H.

14.

An affidavit of undersigned counsel regarding the above-referenced matters is attached hereto as Exhibit I.

WHEREFORE, premises considered, Plaintiff prays this Honorable Court will GRANT her amended petition for settlement, on behalf of herself and her minor daughter, pursuant to the terms outlined herein.

Respectfully submitted, this 2nd day of April, 2014.

/s/ Mark A. Tate
Mark A. Tate
Georgia Bar No. 698820

Tate Law Group, LLC
2 East Bryan St., Suite 600
Savannah, Georgia 31401
Telephone: (912) 234-3030
Facsimile: (912) 234-9700

Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the forgoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system. The parties may access this filing thorough the Court's ECF system.

This 2nd day of April, 2014.

/s/ Mark A. Tate
Mark A. Tate
Georgia Bar No. 698820

Tate Law Group, LLC
2 East Bryan St., Suite 600
Savannah, Georgia 31401
Telephone: (912) 234-3030
Facsimile: (912) 234-9700

Counsel for Plaintiff

PLAINTIFF'S EXHIBIT "A"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

TRACEY DONALDSON, individually)
and on behalf of her daughter, MICHELLE)
TEBOLT, a minor,)
Plaintiffs,)
v.) Case No. 4:13-CV-00184-WTG
URGENT CARE 24/7 OF HISTORIC)
SAVANNAH, LLC, and)
JERRY K. WILLIAMS, M.D.,) Jury trial demanded
Defendants.)

AMENDED COMPLAINT

COMES NOW Plaintiffs Tracey Donaldson, individually and on behalf of her daughter, Michelle Tebolt, a minor, and in support of their Amended Complaint, pursuant to this Court's Order dated January 27, 2014 (Doc. 16) against Defendant Urgent Care 24/7 of Historic Savannah, LLC and Jerry K. Williams, M.D., show as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs Tracey Donaldson and Michelle Tebolt are citizens and residents of Pleasant Valley, New York.
2. Defendant Urgent Care 24/7 of Historic Savannah, LLC is a Georgia limited liability company, and may be served via its registered agent, Jerry K. Williams, M.D., located at 144 Lincoln Street, Savannah, Georgia 31401.

3. Defendant Jerry K. Williams, M.D. is the sole owner and member of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and may be served at his place of business, located at 144 Lincoln Street, Savannah, Georgia 31401.

4. Venue and jurisdiction are proper in this Court.

FACTUAL ALLEGATIONS

5. In August, 2012, while on a vacation with her family in Savannah, Georgia, Plaintiff Michelle Tebolt began to experience coughing, sinus congestion, fever, nausea, and vomiting.

6. On August 27, 2012, Plaintiff Tracey Donaldson took her daughter, Plaintiff Michelle Tebolt to Urgent Care 24/7 of Historic Savannah, located at 144 Lincoln Street, Savannah, Georgia 31401.

7. Plaintiff Michelle Tebolt was seen by a Physician's Assistant at Defendants' location in downtown Savannah. Upon information and belief, this Physician Assistant was an agent and employee of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and was working under the direct supervision of Defendant Jerry K. Williams, M.D., in carrying out his duties as a healthcare provider.

8. According to the medical records, the Physician Assistant consulted with Defendant Jerry K. Williams M.D. concerning the treatment for Plaintiff Michelle Tebolt.

9. The Physician Assistant injected Plaintiff Michelle Tebolt in upper left arm with 80 mg of Kenalog®, a synthetic glucocorticoid corticosteroid.

10. Kenalog® is indicated for intramuscular use only, and unless a deep intramuscular injection is given, local atrophy is likely to occur. (*See Affidavit of treating physician Vincent P. Beltrani, M.D., attached hereto as Exhibit "A," and incorporated as if fully restated herein.*) Further, injection of Kenalog® is contraindicated for injection into the deltoid muscle, and instead is indicated for injection into the gluteal muscle using at least a 1.5 inch needle. *Id.* Finally, dosage is weight dependent, and the 80 mg dose administered to Ms. Tebolt was excessive. *Id.*

11. The Physician Assistant who administered the injection, under the supervision of Defendant Jerry K. Williams, M.D., did not inject the Kenalog® into Plaintiff Michelle Tebolt's muscle, did not inject the proper muscle, did not use the proper needle length, and used too high a dosage for Ms. Tebolt's weight. . (*See Affidavit of treating physician Vincent P. Beltrani, M.D., attached hereto as Exhibit "A," and incorporated as if fully restated herein.*)

12. As a result, the skin and subcutaneous fat in the immediate area of the injection on Plaintiff Michelle Tebolt's upper left arm began to atrophy, causing her to develop a visibly red, disfiguring permanent scar and indentation several inches long which has progressed to five inches in length and one and one-quarter inch in width.

13. In order to remove the scar, Plaintiff Michelle Tebolt will require cosmetic surgery, and ongoing medical treatment, and is likely to endure future pain and suffering.

CAUSES OF ACTION

COUNT I
MEDICAL MALPRACTICE

14. Defendants Jerry K. Williams M.D. and his Physician Assistant were, at all times relevant to this Complaint, required to exercise a reasonable degree of medical care and skill in their evaluation and treatment of Plaintiff Michelle Tebolt.

15. Defendants Jerry K. Williams M.D. and his Physician Assistant violated the standard of care required by treating physicians and Physician Assistants engaged in the evaluation and treatment of patients.

16. Specifically, Defendants Jerry K. Williams M.D. and his Physician Assistant negligently administered the drug Kenalog® by failing to inject the drug entirely into the muscle tissue of Plaintiff Michelle Tebolt.

17. As a direct and proximate result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer permanent and irreversible injury, pain and suffering, pecuniary and economic losses.

COUNT II
RESPONDEAT SUPERIOR

18. Upon information and belief, Defendant Jerry K. Williams, M.D., and his Physician Assistant were agents and employees of Defendant Urgent Care 24/7 of Historic Savannah, LLC, and were acting within the course and scope of their employment with same. At all times relevant hereto, Defendant Urgent Care 24/7 of Historic Savannah, LLC was acting by and through its employees and / or agents Defendant Jerry K. Williams, M.D. and his Physician

Assistant. Therefore, Defendant Urgent Care 24/7 of Historic Savannah, LLC is responsible for all acts and omissions alleged herein against Defendant Jerry K. Williams, M.D. and his Physician Assistant, under the doctrine of *respondeat superior*.

19. The negligence of the Defendants was the direct and proximate cause of the harm caused to Plaintiffs, including physical injury, pain and suffering, and medical expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray as follows:

- (a) For a trial by a jury of twelve (12) persons;
- (b) That summons and process issue and be served upon Defendants;
- (c) For recovery of all past and future medical expenses incurred and mental and physical pain and suffering caused by Defendants' negligence; and
- (d) For such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of January, 2014.

TATE LAW GROUP, LLC

/s/ Mark A. Tate
MARK A. TATE
Georgia Bar No. 698820
marktate@tatelawgroup.com
SHERRI N. WATTS
Georgia Bar No. 176858
swatts@tatelawgroup.com

2 East Bryan St., Ste. 600
Savannah, Georgia, 31401
(912) 234-3030

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 28th day of January, 2014, the forgoing Amended Complaint was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system. The parties may access this filing thorough the Court's ECF system.

This 28th day of January, 2014.

TATE LAW GROUP, LLC

/s/ Mark A. Tate
MARK A. TATE
Georgia Bar No. 698820
marktate@tatelawgroup.com
SHERRI N. WATTS
Georgia Bar No. 176858
swatts@tatelawgroup.com

2 East Bryan St., Ste. 600
Savannah, Georgia, 31401
(912) 234-3030

Attorneys for Plaintiffs

FILED
U.S. DISTRICT COURT
SAVANNAH, GA

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA JAN 28 AM 9:44
SAVANNAH DIVISION

TRACEY DONALDSON, individually
and on behalf of her daughter,
MICHELLE TESOLT, a minor,

CLERK 
SO. DIST. OF GA.

CASE NO. CV413-184

Y

URGENT CARE 24/7, LLC; and JERRY
K. WILLIAMS, M.D.;

Defendants.

ORDER

On December 17, 2013, Plaintiffs filed a Motion for Settlement. (Doc. 15.) However, before the Court rules on this motion, it must determine whether it has jurisdiction over all the parties. Plaintiffs' complaint, which seeks relief stemming from alleged medical malpractice on the part of Defendant Jerry K. Williams ("Williams") and his employer, Defendant Urgent Care 24/7, LLC ("Urgent Care"), attempts to invoke this Court's diversity jurisdiction. (Doc. 1 ¶¶ 2-4.) However, the jurisdictional allegations contained in the complaint are insufficient to establish complete diversity between the parties.

The party invoking this Court's diversity jurisdiction bears the burden of adequately pleading complete diversity between the parties. See 28 U.S.C. § 1332; Ray v. Bird &

Son & Asset Realization Co., 519 F.2d 1081, 1082 (5th Cir. 1975)¹ ("The burden of pleading diversity of citizenship is upon the party invoking federal jurisdiction, and if jurisdiction is properly challenged, that party also bears the burden of proof."). For the purposes of diversity jurisdiction, a limited liability company ("LLC") is a citizen of every state in which any of its members are citizens. Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020, 1021-22 (11th Cir. 2004). The Eleventh Circuit Court of Appeals has been explicit in addressing the proper method to allege sufficiently the citizenship of an LLC: "a party must list the citizenships of all the members of the limited liability company." Id. at 1022.

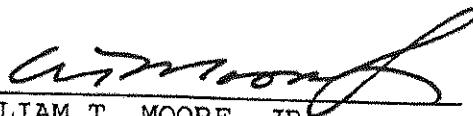
In this case, the complaint does not include a list of the individual members, along with their citizenship, of Defendant Urgent Care. Rather, the complaint simply states that Defendant Urgent Care is a Georgia limited liability company and may be served via its registered agent, Defendant Williams, in Savannah, Georgia. (Doc. 1 ¶ 2.)

¹ In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as

The complaint relies on these allegations to advance the general conclusion that jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332. (Id. ¶ 4.) Such general allegations, however, are insufficient for Plaintiffs to carry their burden of establishing complete diversity between the parties. See Ray, 519 F.2d at 1082.

Accordingly, the Court DEFERS ruling on the Motion for Settlement until diversity jurisdiction is established. Plaintiffs are DIRECTED to file an amended complaint within fourteen days from the date of this order. The amended complaint should properly include the citizenship of each party to this case, specifically the names and citizenships of each member of Defendant Urgent Care.

SO ORDERED this 27th day of January 2014.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

PLAINTIFF'S EXHIBIT "B"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

URGENT CARE OF HISTORIC SAVANNAH

144 Lincoln Street, Savannah, Georgia 31401
912.234.3714 office, 912.234.3771 fax

Tax ID # 45-0862124

NPI # Circle one: Dr. Williams 1710086749

RECEIPT

Patient Name:

Date: 6/27/12

Office Visit

99201	\$ 75.00
99202	\$ 100.00
99203	\$ 150.00
99204	\$ 200.00
99205	\$ 250.00

99341	\$ 60.00
99342	\$ 85.00
99343	\$ 150.00
99344	\$ 200.00
99345	\$ 250.00

F/U Est. Pt.	
99211	\$ 50.00
99212	\$ 75.00
99213	\$ 100.00
99214	\$ 125.00
99215	\$ 150.00

Each Appointment is 30 minute allotted time, each additional 15 min. block is \$50. (CPT99354)(CPT99355)
Each additional RX after the initial one is an additional \$25 per Rx

Injections

Benadryl 50 mg	J1200	\$35/50mg	Zantac	J2780	\$75/50mg
Kenalog 80mg	J3301	\$ 75.00	Ringers Lac	J7120	\$ 25.00
Phenergan 25mg	J2550	\$ 40.00	NS	J7030	\$ 25.00
Toradol 60mg	J1885	\$ 75.00	5%Dextrose	J7042 X2	\$ 25.00
Lasix 10mg	J1940	\$ 35.00	Xopenex 1.25	J7618	\$25/vial
Rocephin 500mg	J0696	\$ 45.00	Rapid Strep	87880QW	\$ 30.00
Rocephin 1gr.	J0696	\$ 50.00	Zofran 2mg/ml	J2405	\$25/ml
Vit. B-12	J3420	\$ 35.00	hCG	81025	\$ 25.00
Tetanus D	90714	\$ 100.00	Influenza AB	87884 x2 (Mod 50)	\$ 50.00
Urine Dip	81003	\$25.00	Monospot	8630QW	\$ 35.00
Wound Culture	87070	\$ 81.00			

Zantac	J2780	\$75/50mg
Ringers Lac	J7120	\$ 25.00
NS	J7030	\$ 25.00
5%Dextrose	J7042 X2	\$ 25.00
Xopenex 1.25	J7618	\$25/vial
Rapid Strep	87880QW	\$ 30.00
Zofran 2mg/ml	J2405	\$25/ml
hCG	81025	\$ 25.00
Influenza AB	87884 x2 (Mod 50)	\$ 50.00
Monospot	8630QW	\$ 35.00

Procedures

cpt 96365	TB TESTING	86580	\$ 35.00
cpt 96366	IV therapy 1 hr each add. Hr		\$ 67.00
cpt 10060	Abscess Drainage with packing	10060	\$ 21.00
cpt 12001	Laceration repair	Simple	\$ 115.00
cpt 12031		Intermed.	\$ 150.00
cpt 13100		Complex	\$ 300.00
cpt 69210	Cerumen Removal		\$ 425.00
cpt 10120	Incision & Rem. of FB		\$ 50.00
cpt 94760	Pulse Ox.		\$ 130.00
cpt 20552/53	Trigger pt/Tendon Sheath		\$ 3.00
cpt 36556	IV Access		\$ 57.00
cpt 94610	Nebulizer Treatment		\$ 50.00
cpt 97597	Simple Debridment		\$ 65.00
cpt 94010	Spirometry		\$ 75.00

Dx. Code URI 465.9

Supplies

Sutures Removal Tray	\$15	Staples kit	\$25	Angio Cath(A4649)	\$5
Suture tray(A4550)	\$50	IV set A-4221	\$50	Dressing Kit(A6257)	\$15
Air cast	\$60	Ace bandage	\$3	Crutches	\$56

TOTAL \$296.00

8 Date: Aug 27, 2012 12:01 PM
STATE 30 x 100 MG CAP
6-0101-30 Mfg NDC:57664-0133-88
1 tablet by mouth 4 times a day

E TEBOLT DOB:3/28/1997 (15 year old)

H GA 31401

JERRY MC

231

8/27/12 12:01 PM MICHELLE TEEQU T 3/28/2012



UNPUPHAMBZ

rx:100498 8/27/2012
Take 1 tablet by mouth 4 times a day
WILLIAMS, JERRY MD
MICHELLE TEBOLT DOB:3/28/1997
OC 86336-0101-30 Lot:F22262 7/31/2013

Rx: 100 98 66336-0101-30 8/27/12 12:01 PM
BENZO ATATE 30 x 100 MG CAP Lot: F22262-7/31/2013
MICHELE TEBOLT DOB: 3/28/1997
Do you require additional counseling for this medication?
YES / NO
Signature:

RECORDED IN THE OFFICE OF THE CLERK OF THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
ON THIS 20TH DAY OF APRIL, 1964
BY JAMES E. COOPER
FOR THE USE OF THE FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
2000 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C.
REGISTRATION NO. 100-1464-1
SEARCHED INDEXED SERIALIZED FILED
APR 20 1964
FBI - WASH. D. C.

URGENT CARE of HISTORIC SAVANNAH

Date 8/27/12

Start Time 11:13 End Time _____

Patient Name: Michelle Tebalt

Mailing Address: 24 Birch Drive

City: Pleasant Valley State: NY Zip: 12580-9

Email Address: Michelle.tebalt@earthlink.net

Date of Birth: 3/28/71 15/10 Social Security #: ?

Home Phone: 845 635-1184

Cell Phone: 845-464-5177

If visiting Phone Number you can be reached: 845 635-1184

Reason for Visit: sick - cold - flu like symptoms, ↑ temp, coughing Nausea

Past Medical History: Seasonal asthma Fever 100.7 on/off

Past Surgical Procedures: None None on/off since Saturday

x 2 days

Social History: smoking or drinking alcohol

Family History: Grandparents to diabetes

Review of Systems: _____

Tetanus up to Date Yes No _____

Known Allergies (Food, Latex, Drugs): Minocycline - hives

Vitals: W 130# H 5'5" R 16 P 103 B/P 92/65 ^(R) O₂ sat 97% Temp 98.7 LMP 8-25-12

MEDS: A/B nasal inhaler, Zyrtec grn currently

Payment is required at the time of services. We accept only Cash or Credit Cards

*128/12 11:13 AM. Please sign and message to the office to each office hour
by 12:15 PM. No later than 12:30 PM. Thank you.*

5: 15y/o WF ♂ complaint of sinus congestion & cough x 3 weeks & nausea x 2 days. Pt had sinus congestion x 3 weeks & was improving until 2 days ago when congestion in sinuses became worse & she developed a productive cough & clear sputum. She also states she has had mild episodes of ~~nausea~~ nausea & vomiting that has resolved today. For 2 days ago at 100.7°F. OBS: Sy in past 24 hrs.

0: General: WD WNL 15y/o WF in NAD

HEENT: Tr clear bi non-irritated, Nasal mucosa red erythematous & bossy & clear nasal drainage.

Posterior pharynx: mild injection & \oplus collection.

\oplus Cervical lymphadenopathy.

Heart: RRR R1/6/m

Ref: I Influenza A-B \ominus

Lungs: CTA bi: \ominus W/R/R

Abdomen: Soft NT & \oplus BS x4

A: 1) URI viral vs bacterial

P: 1) Keratog 80mg IM

2) Azithromycin 500mg $\frac{1}{2}$ po qday x 5 days

3) OTC Sudafed as directed

4) Tussionex 100mg $\frac{1}{2}$ po qid prod cough

5) If sy persist or get worse RIC

6) Discussed Pt w/ Dr. Williams

27 Aug 2012

PATIENT CONSENT FORM

Urgent Care of Historic Savannah

Patient Consent for Use and Disclosure of Protected Health Information

I hereby give my consent for **Urgent Care of Historic Savannah** to use and disclose protected health information (PHI) about me to carry out treatment, payment and health care operations (TPO).

The Notice of Privacy Practices provided by **Urgent Care of Historic Savannah** describes such uses and disclosures more completely.

I have the right to review the Notice of Privacy Practices prior to signing this consent. **Urgent care of Historic Savannah** reserves the right to revise its Notice of Privacy Practices at any time. A revised Notice of Privacy Practices may be obtained by forwarding a written request to Jerry Williams, MD 144 Lincoln Street Savannah, Georgia 31401.

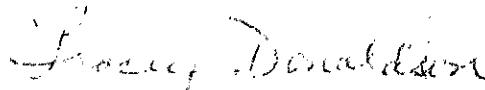
With this consent, **Urgent Care of Historic Savannah** may call my home or other alternative location and leave a message on voice mail or in person in references to any items that assist the practice in carrying out TPO, such as appointment reminders, insurance items and any calls pertaining to my clinical care, including laboratory test results, among others.

With this consent, **Urgent Care of Historic Savannah** may mail to my home or other alternative location any items that assist the practice in carrying out TPO, such as appointment reminder cards and patient statements as long as they are marked "Personal and Confidential."

With this consent, **Urgent Care of Historic Savannah** may e-mail to my home or other alternative location any items that assist the practice in carrying out TPO, such as appointment reminder cards and patient statements. I have the right to request that **Urgent Care of Historic Savannah** restrict how it uses or discloses my PHI to carry out TPO. The practice is not required to agree to my requested restrictions, but if it does, it is bound by this agreement.

The signature below serves as consent for services/treatment/referrals by **Urgent Care of Historic Savannah** for the below names patient. This also authorizes the practice to release or receive protected health information for the purpose of treatment, payment, or health care operations necessary for such services.

I understand and agree that I will be financially responsible for any and all charges for medical services. This includes any medical service or visit, preventative exam, physical, lab testing and other screening service or diagnostic testing ordered by the physician or the physician's staff.



Signature of Patient or Legal Guardian

Tracy Donaldson

Print Patient's Name

8/27/12

Date

Print Name of Patient or Legal Guardian, if applicable

Notice of Privacy Practices

This notice describes how Medical Protected Health Information about **you** may be used and disclosed and how you can get access to this information. Please review it carefully.

Summary

By law, we are required to provide you with our **Notice of Privacy (NPP)**. This notice describes how your medical information may be used and disclosed by us. It also tells you how you can obtain access to this information.

As a patient, you have the following rights:

1. The right to inspect and copy your information;
2. The right to request corrections to your information;
3. The right to request that your information be restricted;
4. The right to request confidential communications;
5. The right to a report of disclosures of your information; and
6. The right to a paper copy of this notice.

We want to assure you that your medical/protected health information is secure with us. This Notice contains information about how we will insure that your information remains private. If you have any questions about this Notice, the name and phone number of our contact person is listed on this page.

Effective Date of this Notice	March 4, 2011
Contact Person	Larry Ward (Practice Manager)
Phone NUMBER	912-786-8389

ACKNOWLEDGEMENT OF NOTICE OF PRIVACY PRACTICES

I hereby acknowledge that I receive a copy of this practice's Notice of Privacy Practices. I understand that if I have questions or complaints regarding my privacy rights that I may contact the person listed above. I further understand that the practice will offer me updates to this Notice of Privacy Practices should it be amended, modified, or changed in any way.

Tracy Donaldson
Patient or Representative Name (Please Print)

Tracy Donaldson
Patient or Representative Signature

8/27/12

Date

**Urgent Care of
Historic Savannah**

Jerry K. Williams, Jr., M.D.

**144 Lincoln Street • Savannah, Georgia 31401
Office: 912.234.3714 • Fax 912.234.3771**

PATIENT'S NAME Michelle Tebo **14 003 3-28-07**
ADDRESS: _____

DATE: 8-27-11

Rx

Azithromycin 500mg #.05

5-5-17 pos day

This prescription is authorized by
Jerry Williams MD by Mike Gribowich, PA-C

REFILL 1 2 3 4 5

Generic Substitution Permitted **M.D.** **PA-C** **MD**

M.D. Dispense as Written



No 001295

Lot No. 326699

NEW YORK STATE

Commissioner of Motor Vehicles



ID: 107 966 977

C. 1980

DONALDSON
TRACEY L
24 BIRCH DR
PLEASANT VAL NY 12589
DOB: 07-10-61
SEX: F EYES: BL HT: 5'08
NONE
NONE
ISSUED: 05-23-11

FEAR
FIRE



PLAINTIFF'S EXHIBIT "C"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

STATE OF NEW YORK)
COUNTY OF DUTCHESS)
)

AFFIDAVIT OF VINCENT P. BELTRANI, M.D.

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date Vincent P. Beltrani, M.D., who after being duly sworn, deposes and states as follows:

1. I am over the age of eighteen years, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I make this affidavit based upon my medical knowledge and experience, and my review of certain medical records pertaining to Plaintiff Michelle Tebolt, as described herein.
2. I am a physician duly licensed to practice medicine in the State of New York.
3. I have practiced medicine since 1990.
4. I am familiar with the standard of care owed by physicians who perform or supervise the diagnosis and treatment of patients via intramuscular injection of the drug Kenalog®. I have performed or supervised the diagnosis and treatment of patients throughout the course of my medical career on a regular and routine basis, including the five years preceding Plaintiff Michelle Tebolt's treatment in August, 2012.
5. The opinions stated herein are to a reasonable degree of medical certainty.
6. I have reviewed the medical records of Plaintiff Michelle Tebolt, which include the records from Defendant Urgent Care 24/7, LLC concerning Plaintiff's treatment.

7. The medical records which I have reviewed document that Plaintiff Michelle Tebolt presented at Defendant Urgent Care 24/7, LLC's office in downtown Savannah, Georgia on August 27, 2012, with a cough, sinus congestion, fever, nausea and recent vomiting.

8. Plaintiff Michelle Tebolt was diagnosed with an upper respiratory infection by a Physician Assistant acting as an agent and / or employee of Defendant Urgent Care 24/7, LLC, after consultation with Defendant Jerry K. Williams, M.D.

9. As noted in the Physician Assistant's notes, he proceeded to treat Plaintiff Michelle Tebolt with an injection of 80 milligrams of the drug Kenalog® into Plaintiff Michelle Tebolt's upper left arm.

10. Subsequently, Plaintiff Michelle Tebolt suffered from atrophy of the tissue immediately surrounding the injection site, resulting in a permanent, visibly red and disfiguring scar and indentation measuring approximately five inches in length and one and one quarter inch in width.

11. It is my opinion that Defendant Jerry K. Williams, M.D., and the certified physician assistant acting under his supervision, violated the acceptable standard of care in the diagnosis and treatment of Plaintiff Michelle Tebolt. Specifically, Defendant Jerry K. Williams, M.D. failed to ensure that the drug Kenalog® was properly and exclusively injected into the gluteal muscles of Michelle Tebolt, in a proper dosage, and that the physician assistant used a needle of proper length, resulting in her injuries.

12. My opinions are based on the review of the medical records referenced herein. I may have additional opinions upon consideration of additional information and evidence concerning Plaintiff Michelle Tebolt's treatment and care.

[Signatures reserved for following page]

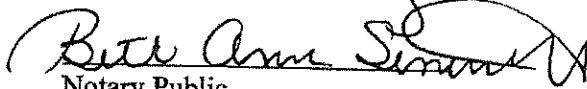
FURTHER AFFIANT SAYETH NOT,

This 28th day of May, 2013.



VINCENT P. BELTRAMI, M.D.

Sworn and subscribed before me
this 28th day of May, 2013.



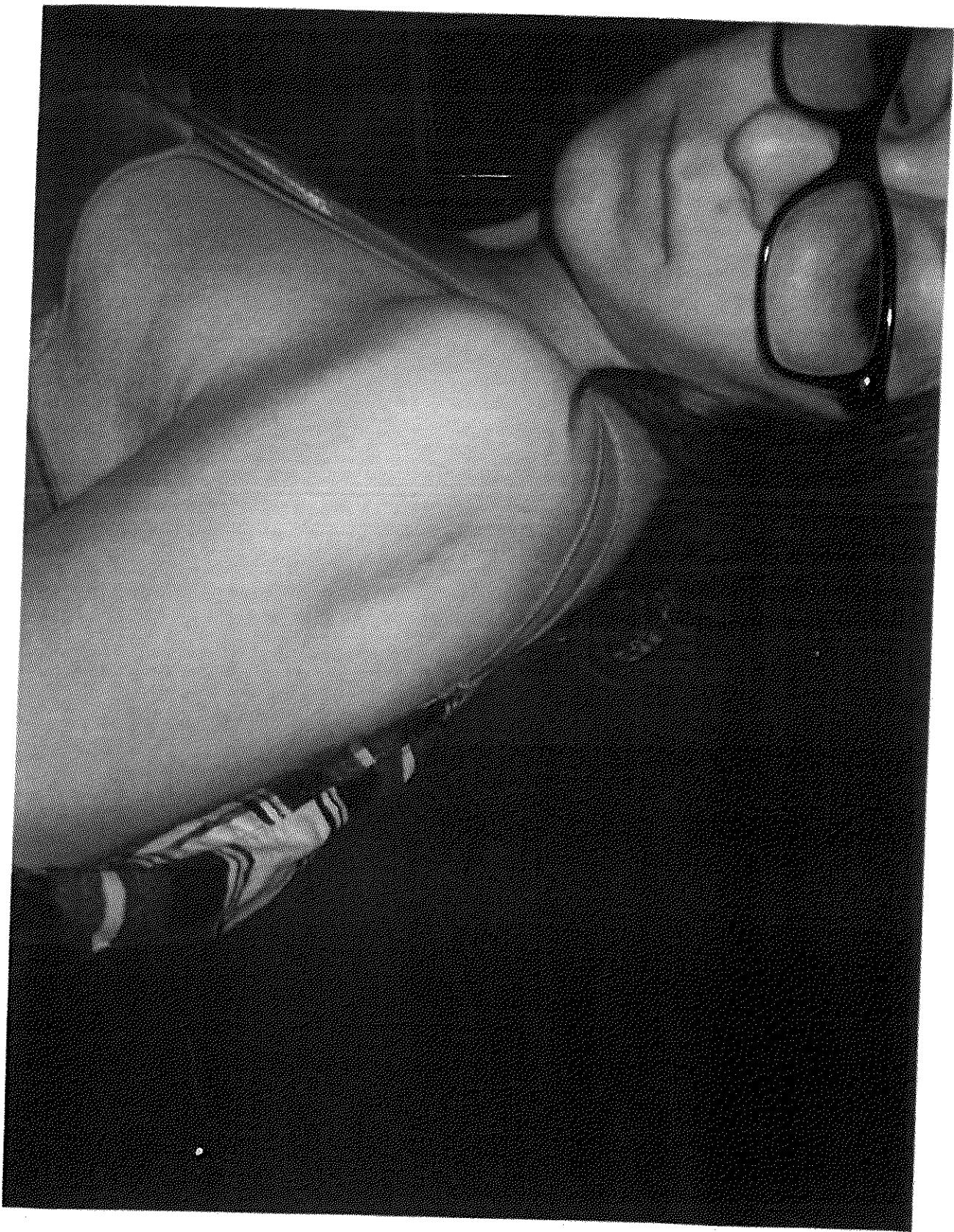
Beth Ann Simonetti
Notary Public

My commission expires: 7/19/14

Beth Ann Simonetti
Notary Public, State of New York
Lic. No. 01S16225088
Qualified in Dutchess County
Commission Expires July 19, 2014

PLAINTIFF'S EXHIBIT "D"

Civil Action No.: 4:13-CV-00184 - April 2, 2014



PLAINTIFF'S EXHIBIT "E"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

Plastic Surgeons of the Hudson Valley
207 Washington Street Suite 203, Poughkeepsie, NY 12601
#845-471-0800

CONSULTATION DETAILS

Date: 6/24/13 Email: _____

Patient name: Michelle Teboet

Initial to allow follow up by mail: _____

Dr. Enisman

Dr. Sepulveda

Procedure: Scar revision with complex closure (pt arm
(cpt code 13121))

Time Needed: 1hr *Cosmetic Add-on Rates _____

Anesthesia Type: none general or MAC local

Same day

Outpatient

Overnight

Vassar/Westage/VASC

St. Francis Hospital

Dr. Fee \$ 1500 -

(20% of Dr's fee non-refundable deposit is due at time of scheduling surgery \$ _____)

Implant Fee/ \$ _____
Supply Fee \$ _____

Hospital Fee \$ 983 -

Overnight: \$ -

NYS +9.65% \$ N/A

Anesthesia: \$ 590 -

TOTAL: \$ 3073 -

- All fees are paid in full 2 weeks prior to surgery with 3 SEPARATE payments for Dr. (plus implants if needed), hospital and anesthesia. This includes any financed portion of the case fee. PLEASE NOTE THAT WE OFFER FINANCING through CARECREDIT for doctor/implants www.carecredit.com.
- We also accept MasterCard, Visa or Discover. Hospitals accept only MasterCard and Visa.
- Fees do not include any pre-surgical testing that may not be provided by the hospital or through your insurance benefits from your primary doctor.
- *Please note that Imperative Information will be discussed with you at your pre-op appointment and we request that alternate care be provided for small children*

STATE OF NEW YORK

)

COUNTY OF _____

)

)

AFFIDAVIT OF CELESTINO SEPULVEDA, M.D.

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date Celestino Sepulveda, M.D., who after being duly sworn, deposes and states as follows:

1. I am over the age of eighteen years, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I make this affidavit based upon my medical knowledge and experience, and my personal observation of and consultation with Plaintiff Michelle Tebolt.

2. I am a physician duly licensed to practice medicine in the State of New York.

3. I have practiced medicine since _____, and specialize in cosmetic surgery.

4. I am familiar with the standard of care owed by physicians who perform scar revision surgery, including those requiring complex closure. I have performed or supervised the diagnosis and treatment of patients with similar scarring throughout the course of my medical career on a regular and routine basis, including the five years preceding this affidavit.

5. The opinions stated herein are to a reasonable degree of medical certainty.

6. I am a physician practicing at Plastic Surgeons of Hudson Valley, located at 207 Washington Street, Suite 203, Poughkeepsie, New York, 12601.

7. I examined Michelle Tebolt on June 24, 2013, with regard to a scar revision with complex closure on her left arm.

8. I have estimated that the time required to revise Ms. Tebolt's scar would be one hour and necessitate either general anesthesia or monitored anesthesia care (MAC).

9. My fee for performing the procedure would be \$1,500.00. The hospital fee would be \$983.00 and the anesthesia charges would be \$590.00. The total cost of Ms. Tebolt's scar revision would therefore be \$3,073.00.

10. The recovery time for this surgery is approximately three (3) months, during which Ms. Tebolt would require significant restrictions on the use of her left arm.

11. Depending on the recovery and results of the surgery, Ms. Tebolt is likely to have to undergo another, similar surgery to complete the repair of this scar, at an estimated cost of \$_____.

FURTHER AFFLANT SAYETH NOT.

This _____ day of _____, 20____.

Celestino Sepulveda, M.D.

Sworn to and subscribed before me,
this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

PLAINTIFF'S EXHIBIT "F"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

From:

11/25/2013 13:57 #093 P.001/005

TATE LAW
GROUP, LLC2 East Bryan Street • Suite 600
Savannah, Georgia 31401Telephone: (912) 234-3030
Facsimile: (912) 234-8700
www.tatelawgroup.com

FACSIMILE COVER PAGE

TO:	Celestino Sepulveda, M.D.	FAX:	845-471-0811
FROM:	Sherri N. Watts, Esq.	FAX:	(912) 234-9700
DATE:	November 25, 2013	PAGES:	4, including cover
RE:	Tebolt, Michelle		
REMARKS:	<p>ATTN: JESSICA -</p> <p>I spoke with Narette at your office, who confirmed that we could get Dr. Sepulveda's signature on the enclosed statement for purposes of settling Mrs. Tebolt's case in federal court. If there are any changes that Dr. Sepulveda would like me to make, please note them on the return copy. I have attached a document provided by Michelle Tebolt's mother for your office. Please call me if there are any questions.</p>		

Dr. Sepulveda looked over the paperwork.

is charging a "400" fee for a legal opinion. Please call the office to make payed or send a letter stating this will be paid. The documents accompanying this telecopy transmission contain information from the law firm of Tate Law Group, L.L.C. which may be confidential and/or legally privileged and, regardless of the nature of the information thereon, the documents are intended only for the use of the individual or entity to whom the documents are addressed. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in regard will be a violation of law.

L. Freed.

PLAINTIFF'S EXHIBIT "G"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

2:15 PM
12/17/13

Tate Law Group
Client Expenses Ledger For:
Michele Tebolt

Date	Memo	Amount
Tebolt, Ms. Michelle		
6/19/2013	Copies	1.50
6/19/2013	Scans	1.50
6/30/2013	Postage & Delivery	2.30
7/30/2013	U. S. District Court, Southen District of Georgia Filing fee	400.00
8/2/2013	Plastic Surgeons of the Hudson Valley	9.12
8/2/2013	Ortiz & Associates	90.00
9/30/2013	Postage & Delivery	0.46
10/9/2013	Urgent Care of Historic Savannah	35.64
10/31/2013	Postage & Delivery	0.46
10/31/2013	Copies	3.25
10/31/2013	Scans	2.25
11/1/2013	William Michael Grabowski/Witness Fee	44.40
11/30/2013	Postage & Delivery	1.32
Total Tebolt, Ms. Michelle		592.20
TOTAL		592.20

PLAINTIFF'S EXHIBIT "H"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

CONTRACT FOR LEGAL REPRESENTATION
(Contingency Fee Agreement)

I, Tracey Donaldson, do hereby employ Tate Law Group, LLC, to represent me with regard to the following matter:

Michelle Tebalt vs. Urgent Care

For and in consideration of the services to be rendered, I agree to pay Tate Law Group, LLC the following contingent fees and expenses:

35% plus cases expenses if settled before trial, 40% if case goes to trial

(1) of the highest offer extended during my employ of Tate Law Group, LLC; or
(2) of the verdict should this case go to trial

I understand and agree that this contractual relationship with Tate Law Group, LLC to be governed under the laws of the State of Georgia. I understand that I may dismiss my attorneys at any time, for any reason, upon written notice to Tate Law Group, LLC and payment of unpaid expenses and services rendered to the date of receipt of such notice. This payment is to be based upon time devoted to my case at an hourly rate of \$450.00 per hour, or the applicable percentage of fee due the law firm under the terms of this agreement of any offers which have been made by any adversary.

I represent that I have not heretofore engaged or employed any other attorney or law firm to represent me.

I expressly grant to Tate Law Group, LLC a power of attorney to endorse and deposit into the client trust account any drafts or checks received by the law firm and made payable to me in whole or part, and I authorize said law firm to deduct fees, as well as costs and expenses from my share of any such sums recovered. Any unpaid liens or bills for hospitals, doctors, and other medical services shall remain my obligation.

WITNESS my hand this the 30th day of May, 2013.

Tracy Donaldson
(Client)

Employment accepted on the basis of the above outlined this _____ day of _____, 2013

Tate Law Group, LLC

By: Shewell & Walts
(For the Firm)

PLAINTIFF'S EXHIBIT "I"

Civil Action No.: 4:13-CV-00184 - April 2, 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

TRACEY DONALDSON,)
individually, and on behalf of)
her daughter, **MICHELLE TEBOLT**,)
a minor,)
Plaintiff,)
v.) CIVIL ACTION NO. 4:13-CV-00184
URGENT CARE 24/7, LLC, and)
JERRY K. WILLIAMS, M.D.)
Defendants.)

AFFIDAVIT OF MARK A. TATE, ESQ., COUNSEL FOR PLAINTIFF
IN SUPPORT OF PETITION FOR SETTLEMENT

1.

Before the undersigned officer duly authorized to administer oaths in and for the county aforesaid, came this date, Mark A. Tate, Esq., who after being duly sworn, deposes and states as follows:

2.

I am eighteen years of age or older, and laboring under no mental or physical incapacities, and I am competent in all respects to make this affidavit. I am duly licensed to practice law in the State of Georgia, and have been admitted to practice in this Court since 1992. I represent the Plaintiff, Tracey Donaldson, individually and on behalf of her daughter, Michelle Tebolt, a minor. I make this affidavit based upon my personal knowledge of the facts described herein;

3.

On July 30, 2013, the present suit was filed alleging that Defendants' conduct fell below the standard of care in the following manner:

- (a) Defendants failed to observe the contraindication for the injection of Kenalog® into muscles other than the gluteal muscle;
- (b) The Defendants failed to observe the proper dosage for Kenalog®; and
- (c) On information and belief, the Defendants failed to ensure that the proper needle length of 1.5 inches was utilized.

4.

The affidavit of Dr. Vincent P. Beltrani, Ms. Tebolt's family care physician, is attached to Plaintiff's Petition for Settlement as Exhibit B, in support of the above-referenced allegations.

5.

As a result of Defendants' alleged negligence, Ms. Tebolt will have to undergo cosmetic surgery to repair the scar tissue in her upper left arm. A true and correct copy of a picture of Ms. Tebolt's arm as of May, 2013, is attached to Plaintiff's Petition for Settlement as Exhibit C.

6.

A statement regarding the costs of this surgery, and prognosis, prepared for Dr. Celestino Sepulveda's signature, is attached hereto as Exhibit D. However, Dr. Sepulveda has asked for \$400.00 before he will sign any statement. See facsimile attached as Exhibit E. In order to obtain the highest possible recovery for our client, we have foregone this expense pending an Order to obtain a notarized signature from Dr. Sepulveda.

7.

After reviewing the above-referenced evidence, and conferring with Defendants' counsel, the parties have reached an agreement to settle all claims for \$ 35,000.00.

8.

A true and correct copy of the expenses incurred to date by undersigned counsel is attached to Plaintiff's Petition for Settlement as Exhibit F.

9.

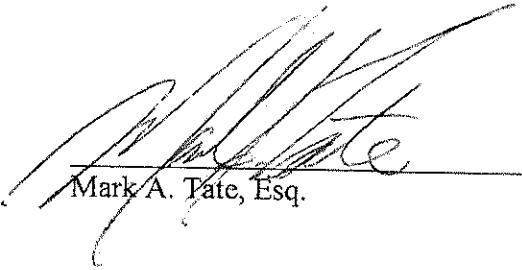
A true and correct copy of the existing fee contract with undersigned counsel, is attached to Plaintiff's Petition for Settlement as Exhibit G.

10.

In my estimation, this settlement is in the best interests of my client and her minor child.

FURTHER AFFIANT SAYETH NOT.

This 13th day of March, 2014.



Mark A. Pate, Esq.

Sworn to and subscribed before me,
this 13th day of March, 2014.

Katii M. Kindred

Notary Public

My Commission Expires: 3/25/17

